

**FILED**

NOV 29 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLANDDECLARATION IN SUPPORT OF PLAINTIFF'S MOTION FOR A Temporary  
Restraining order And Preliminary injunction.

07-4277-CW

MALIK JONES declares under Penalty of

1. I AM PLAINTIFF IN THIS CASE. I MAKE THIS DECLARATION IN SUPPORT OF MY MOTION FOR A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION TO ENSURE PLAINTIFF SAFETY AND SECURITY OF HIS LIFE, MENTAL AND PHYSICAL SAFETY.
2. AS SET FORTH IN THE COMPLAINT IN THIS CASE, I WAS ASSAULTED AND MANAGED I.E. KIDNAPED AND FORCED TO HIGH DESERT STATE PRISON FROM SALINAS VALLEY STATE PRISON UNDER FALSE PRETENSES, NEVER GIVEN ANY ENDORSEMENT OR TRANSFER DOCUMENTS.
3. SINCE PLAINTIFF ARRIVED AT (H.O.S.P) HE HAS BEEN SUBJECTED TO ON GOING CONSTANT RETALIATION, HARASSMENT, INTIMIDATION. THIS RETALIATION GOT SO SEVERE PRISON OFFICIALS ATTEMPTED TO LET PLAINTIFF DIE, DUE TO THEM ALLOWING PLAINTIFF TO STAY ON HUNGER STRIKE ABOUT 3. WEEKS, DUE TO PLAINTIFF BEING ON HUNGER STRIKE PROTESTING THE CONSTANT RETALIATION FROM (H.O.S.P) OFFICIALS.
4. ONLY THING THAT MADE (H.O.S.P) OFFICIALS TAKE ACTION TO THIS FACT IS THAT TWO OUTSIDE ENTITIES GOT INVOLVED AND ASK WHY ACTION HASN'T BEEN TAKEN TO THIS FACT. PLAINTIFF ENDED UP GOING TO (AD-SEG) I.E. ADMINISTRATIVE SEGREGATION. AN AFTER PLAINTIFF INFORM (H.O.S.P) OFFICIALS THAT HE NEEDS AN IMMEDIATE ~~TRANSFER~~ EMERGENCY TRANSFER OUT OF (H.O.S.P) DUE TO HIS LIFE SAFETY AND SECURITY IS IN SEVERE DANGER BEING AT (H.O.S.P) FROM (H.O.S.P) OFFICIALS, AND IF PLAINTIFF IS FORCED TO ONE OF (H.O.S.P) G.P. MAINLINES INSTEAD OF BEING TRANSFERRED TO ANOTHER PRISON IMMEDIATELY (H.O.S.P) OFFICIALS WILL SERIOUSLY INJURE PLAINTIFF OR WDRSC OR SET PLAINTIFF UP FOR THIS TO HAPPEN TO HIM.

5. This Fell on DEAF EARS AND PLAINTIFF WAS FORCED TO B-YARD 6.17/MAINLINE AT (HOSP) ON 2-7-07 ~~and~~ AND ON 2-14-07 AN OFFICER THAT PLAINTIFF HAD A PRIOR INCIDENT WITH AT SALINAS VALLEY STATE PRISON WHEREIN OFFICER B. PINNEO RETALIATED AGAINST AND HARASSED PLAINTIFF. THIS OFFICER WORKS AT (HOSP) NOW AND ON 2-4-07 PLAINTIFF WAS HOUSED IN SAME BUILDING THIS OFFICER B. PINNEO WOKS IN AT (HOSP) B-YARD BUILDIN 4 AND ON 2-7-07 APPROACHED CELL PLAINTIFF WAS HOUSED IN KICKED CELL DOOR AND STATED YEAH JONES REMEMBER ME,

6. I WAS TOLD THE FUCKED YOU UP AND FORED YOU UP HERE. I CAN'T WAIT TO GET YOU OUT OF CELL AND WALKED OFF LAUGHING. WELL ON 2-14-07 OFFICER B. PINNEO MADE GOOD ON HIS PROMISE OF MORE RETALIATION, AND WHILE PLAINTIFF WAS TURNED AROUND GOING INTO CELL ~~back~~ "A THREAT TO NO ONE" OFFICER B. PINNEO ATTACKED PLAINTIFF FROM BEHIND FORCING IN PLAINTIFF IN A CHOK HOLD AROUND PLAINTIFF'S NECK. PUTTING OC PAPER SPRAY AGAINST SIDE OF PLAINTIFF'S FACE STATING I'LL MAKE YOU EAT THIS WHOLE CAN OF MASE.

7. THEN OFFICER B. PINNEO ATTEMPTED TO TIP PLAINTIFF OVER BACK WARDS OUT HIS/PLAINTIFF'S WHEELCHAIR, AND STARTED FORCEFULLY SNATCHING AND PULLING PLAINTIFF OUT OF CELL. THEN ALARM ACTIVATED WHICH BROUGHT SEVERAL MORE OFFICERS TO SCENE AN INSTEAD OF STOPING THE UNNECESSARY EXCESSIVE FORCE B. PINNEO WAS COMMITTING ON PLAINTIFF, THESE OTHER OFFICERS JOINED IN AND ALONG WITH B. PINNEO ~~and~~ STARTED BEATING PLAINTIFF WITH THEIR BATONS, AND SNATCHING AND PULLING PLAINTIFF OUT CELL. OFFICER THEN SWUNG BATON TO STRIKE PLAINTIFF IN HEAD AND FACE. PLAINTIFF SEEN BATON COMING AND SACR HIS ARM TO PROTECT HIS HEAD AND FACE AND PLAINTIFF'S ARM NOT JUST BROKEN IT WAS "SHATTERED".

8. PLAINTIFF WAS THEN THROWN FACE FIRST TO THE GROUND, "FORCEFULLY" HAD ALL OF HIS CLOTHING SNATCHED OFF EXCEPT HIS BOXERS/UNDERWEAR OFFICERS KNEES PUT IN HIS BACK NECK, AND THEN HANDCUFFED BEHIND BACK FORCEFULLY PICKED UP THROWN IN HIS WHEELCHAIR. DUE TO THIS BEATING PLAINTIFF HAD TO BE TAKEN TO OUT SIDE HOSPITAL "ST. MARY'S" IN RENO WHEREIN PLAINTIFF HAD TO UNDERGO MAJOR SURGERY TO HAVE RIGHT FORE REBUILT, NOW PLAINTIFF ARM/HAND BARLEY WORK AND AT TIMES DOESN'T WORK AT ALL. IT IS NO DOUBT THAT IF PLAINTIFF ~~any more~~ WOULD HAVE NOT SAC HIS ARM TO PROTECT HIS HEAD AND FACE FROM BATON STRIKING THEM, PLAINTIFF WOULD BE DEAD OR IN COMA RIGHT NOW."

9. This By it's self has irreversibly and irreparably injured plaintiff physically, mentally and emotionally and (HDSP) officials falsely imprisoning plaintiff at (HDSP) in attempts to cover this incident up. By subjecting plaintiff to constant retaliation, harassment, setups and intimidation.
10. Not just to make plaintiff not pursue legal actions on them violating plaintiffs civil rights also to help others prison officials at other prisons so that plaintiff won't file legal actions on them for violating plaintiffs civil rights. This is irreparable injuring plaintiffs mental, physical and emotional health severer he is held captive and not transfered out of (HDSP).
11. And as I plaintiff started to add up the facts here at (HDSP) after I was assaulted and mannaped/Kidnaped and forced to (HDSP) from (SVSP) under false pretenses. Facts being (one) (HDSP) officials attempting to help (SVSP) ~~mannaped~~ ~~kidnaped~~ officials cover this up, by given plaintiff no medical attention for injuries (two) at a committee in month of July, 2006 counselor of committee stating to me "oh your Jones the one they fucked up and forced up here, well we're not going to help you" (three) The constant ongoing retaliation, harassment, intimidation and setups by (HDSP) officials.
12. (four) (HDSP) officials attempting to let plaintiff Die Due to him being on hunger strike protesting the ongoing retaliation (HDSP) ~~mannaped~~ ~~kidnaped~~ officials ~~mannaped~~ are constantly subjecting him to. (Five) The incident of 2-7-07 stated in paragraph (five), (six) incident of unnecessary excessive force stated in paragraphs (six) and (seven) in this declaration, this is just a few incidents which there are many more of, the constant retaliation of "all" forums plaintiff is continually subjected to and to seald these facts, that plaintiff was obviously assaulted "Knocked unconscious" and mannaped/Kidnaped to (HDSP) from (SVSP) under "false" pretenses to be "Killed," is an officer name Lebeck

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That plaintiff was involved in incident with at folsom state Prison in Dining hall, were in this officer used unnecessary excessive force on plaintiff.

13. Well this officer works at (Hosp) now and he worked D-5 building 10-31-07 and approached cell door this day and stated to plaintiff "Damn Jones we haven't Killed you yet, your not dead yet." (note new folsom is also prison wherein the ongoing constant different types of retaliation from prison officials you could and couldn't think of started, Due to plaintiff constantly exercising his constitutional rights and testifying in a prison officials misconduct case Due to there abusive behavior and abuse of authority.

14. For the foregoing reasons, the court should grant ~~MOTION~~ for plaintiff's in all respects.

"Important" the officer name Lebeck that plaintiff refers to in this TRO "see" paragraphs (12) and (13) of this declaration, along with supporting affidavits. Well on 11-20-07 while leaving Law Library from geting copies of documents officer Lebeck threatened plaintiff, then sadistically and maliciously made sure he searched and wantonly bened plaintiff's right arm behind back causing plaintiff severe pain, then squeezing plaintiff buttocks and genitals to pravoke plaintiff so another act of unnecessary excessive force could be acted out on plaintiff again by prison officials.

~~I Declare under penalty of perjury that the foregoing is true and correct.~~



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Also "important" for the court to know Due to the ongoing retaliation of all forms from High Desert state prison officials (HDSP) plaintiff has been on hunger strike for 70 days now (for the first 10 days not excepting nothing) then was showed that being that food trays OR greivance related issue stay on hunger strike with them and except your lunches. Due to officers first tampering with and spiting in food trays then throwing food tray through food port at plaintiff striking plaintiff with it, then coming in cell with several more officers illegally against CDC rule and regulations assaulting plaintiff, these incidents has made it impossible for plaintiff to except a food tray and on 11-6-07 Due to lack of food and nutrition intake plaintiff blacked out and fell out in cell and was pulled out and taken to (CTC) I.E. correctional treatment center.

Also important facts officer L. Betti that spit in plaintiff food tray, threw food through food port striking plaintiff with it coming in cell with several more officers assaulting plaintiff. Came to plaintiff door the month of october and stated to plaintiff I read 602 you wrote on me throwing tray at you hiting you with it then coming in cell with other officers assaulting you Jones, that's why I have your mothers address and I'm going to go fuck her in her ass.  
" See Affidavits."

Judge Claudia Wilken more "important" facts for the court to know as it was holiday from wensday thru Sunday

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mail wasn't going out so plaintiff was unable to submitte  
this TRD which end up being good in a sense. As stated import-  
ant on 11-24-07 officer name Callison that is always retaliating  
and harrassing plaintiff with officer name Betti, after he  
droped bar of soap on ground and Kicked it under plaintiff cell  
door so hard it flew to back of cell and hit the wall and  
plaintiff stated why the hell did you do that. Officer Callison  
response was laughing then stated I'm going to fuck your mother  
in the ass with Betti.



Also "important" for court to know then on 11-25-07 one of  
officers that force plaintiff to B-yard (that also knocked  
plaintiff upside his head while plaintiff was fully waistchain  
handcuffed and shackled and no threat to anyone) after plaintiff  
informed them that (HOSP) officials have been ~~murdered~~ and attempt  
to kill him and if he's forced to B-yard ~~and~~ and not transfered  
out of (HOSP) officers will seriously injure plaintiff or worse or  
officers will set plaintiff up for this to happend to him/plaintiff.  
This fell on deaf ears and plaintiff was forced to B-yard 2-4-07  
and 2-14-07 plaintiff was subjected to a brutal heinous attack  
of unnecessary exsessive force by officers as stated in paragraph  
5, 6, 7, 8, 9 and 10 of this declaration.

Well this officer B. McBride worked building 5-D-yard wherein  
plaintiff is currently housed 11-25-07, and wantonly ~~and~~ refused to  
give plaintiff his lunch knowing plaintiff Doesn't and it's impossi-  
ble for plaintiff to except food trays. Then when plaintiff ask  
for his lunch officer B. McBride stated fuck you Jones that's  
why we forced you to B-yard to get you fuck up "we were trying to  
kill your ass."

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Plaintiff refers the court to *Duran v. Anaya*, 642 F. Supp.  
510, 527 (D.N.M. 1986) "Prisoner" interest in safety and medical-  
care outweighed state's interest in saving money.

Malik Jones

K-09665

11-25-07

I declare under penalty of perjury the foregoing is  
true and correct. ~~Malik Jones~~

~~On 11-13-07~~ I heard Officer Lebeck state:  
① Damn Jones, we havn't killed you yet, Your not  
Dead yet. The date was Halloween.

The foregoing is true and  
Correct.

K-91986  
Lawrence Larry  
11.12.07

Affidavit



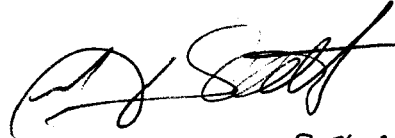
AS MR. SCOTT IS LEGALLY BLIND HE WAS ASSISTED IN WRITTING THIS AFFIDAVIT DUE TO HIS DISABILITY. THE FOLLOWING QUESTIONS WAS ASKED

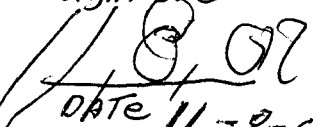
Q. DID YOU HEAR OFFICER L. BETTI IN THE MONTH OF OCTOBER STATE, JONES I READ BAD YOU WROTE ON ME THROWING TRAY AT YOU THREW FOOD PORT, THEN COMING IN YOUR CELL ASSAULTING YOU WITH SEVERAL ~~OTHER~~ OTHER OFFICERS. THAT'S WHY I HAVE YOUR MOTHER'S ADDRESS AND I'M GOING TO GO FUCK HER IN THE ASS?

SCOTT'S ANSWER: YES I HEARD THIS AND WAS APPALLED AND SHOCKED AT OFFICER BETTI STATING HE WAS GOING TO GO FUCK MR. JONES'S K-09065 MOTHER IN HER ASS,

Q. DID YOU ~~HEAR~~ HEAR OFFICER NAME Lebeck <sup>STATE</sup> TO JONES, DAM JONES WE HAVEN'T KILLED YOU YET, YOU'RE NOT DEAD YET?

MR. SCOTT'S ANSWER: YES, AND I REMEMBER WHAT DATE IT WAS 10-31-07, DUE TO IT BEING HALLOWEEN.

  
signature P-83633

  
DATE 11-8-07

DO YOU SCOTT DECLARE UNDER PENALTY OF PERJURY THE FOR GOING IS TRUE AND CORRECT?

MR. SCOTT'S ANSWER: YES I DO OF MY OWN WILL UNDER NO DURESS.

IN THE MONTH OF OCTOBER I HEARD OFFICER L. BETT. WHILE AT MR. JONES K-09065 CELL DOOR STATE TO JONES. I READ YOUR GOZ YOU WROTE ON ME THROWING YOUR TRAY THREW THE FOOD PAST AT YOU, THEN COMING IN YOUR CELL WITH SEVERAL OTHER OFFICERS ASSAULTING YOU. THAT'S WHY I HAVE YOUR MOTHER ADDRESS AND I'M GOING TO GO FUCK HER IN HER ASS. I ALSO SEEN OFFICER BRAUNTINGHAM APPROACH MR. JONES CELL DOOR WITH A BROOM AND REPEATINGLY RAM THE BROOM UNDER THE CELL DOOR. I ALSO HEARD OFFICER NAME LEBECK WHILE AT MR. JONES DOOR STATE DAM JONES WE HAVEN'T KILLED YOU YET, YOU NOT DEAD YET. THIS WAS IN THE MONTH OF OCTOBER 10-31-07 I REMEMBER DUE TO IT BEING HALLOWEEN.

Stephan Brown  
C-23320  
11-7-07  
DATE

THIS STATEMENT IS OF MY OWN ACTION UNDER NO DURESS.

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT.

My Name is James Lisper E-97318 The following took place in BNU D-S cell #109 The residence inmate Jones K-09065. When I picked up the conversation % Betty was saying 602 about him and some officers abusing Mr. Jones by throwing a tray at him thru the tray slot. And about % Betty and some officers coming in <sup>cell</sup> #109 and assulting Mr Jones. The statement that I clearly heard was when % Betty said something about fucking Mr Jones mother in the ass. 2 other officers by the name of % Lebeck & % Brautingham where also there harrassing Mr Jones. % Brautingham had a broom he went to <sup>cell</sup> 109 with it. I heard Mr Jones saying something about why the hell are you ramming that broom in my cell. At That point % Lebeck said that he was lucky they had not killed him, he said your not dead yet. All this happened in October about Base Ball Play off time 10-31-07.

James Lisper

E-97318

11-10-07

This statement is of my own free will under no Duress.

I Declare under penalty of Perjury that the foregoing is true and correct. Thank you